

## REMARKS

By this Amendment, Applicant has canceled claims 1-60, 65, and 77 and amended claims 61, 63, 66, 73-76, and 78-84. No new matter has been added. Claims 68, 69, 71, 72, 80, 81, 83, and 84 remain withdrawn from consideration as being directed to a non-elected species. Upon the allowance of generic claims 61 and 73, Applicant respectfully requests the rejoinder and allowance of withdrawn claims 68, 69, 71, 72, 80, 81, 83, and 84.

In the Office Action mailed on March 13, 2006, claims 61-67, 70, 73-79, and 82 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. With regard to claims 61 and 73, objection was made to the use of the term "conventional." While Applicant disagrees that the term "conventional" is unclear, in an effort to promote prosecution Applicant has amended claims 61, 66, 73, and 78 to remove the objectionable language. With regard to claims 63 and 75, Applicant has amended the claims as suggested by the Examiner.

With regard to claims 66, 67, 78, and 79, objection was made to the use of the terms "certified helmet" and "SNELL-certified helmet." Applicant respectfully traverses this rejection. Applicant submits that there is no requirement to define the "exact certification" in the claims as proposed by the Examiner. The specification discusses an exemplary type of certification applicable to a helmet used for racing and explains how a certification may be voided. See, for example, paragraph 54 on page 15. Further, Applicant submits that those of ordinary skill in the art are well aware of the types of certification applicable to helmets used for racing and the requirements therefor. For at

least these reasons, Applicant requests reconsideration of the rejection and allowance of the claims.

Claims 61, 64, 65, and 70 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,371,905 to Keim ("Keim"). Applicant respectfully traverses this rejection for the reasons provided below.

Keim discloses a neck and spine protection device for football players. The device includes a helmet, shoulder pads, and a dampening mechanism connected to both the helmet and the shoulder pads. As noted in the Office Action, Keim suggests that a guide rail 58 may be connected to the helmet by a "suitable adhesive."

Amended independent claim 61 requires "providing a helmet having an outer shell" and "attaching the at least one bracket to the outer shell of the helmet with a binary methyl methacrylate adhesive." Support for this amendment may be found, for example, at the end of paragraph 54, on page 16 of the specification. Applicant submits that DP810, manufactured by 3M Corporation, is a binary methyl methacrylate adhesive.

Keim does not disclose or suggest the use of a binary methyl methacrylate adhesive. For at least this reason, Keim cannot anticipate claim 61 or the claims that depend therefrom. Reconsideration of the rejection and allowance of the claims are requested.

Claims 61-67, 70, 73-39, and 82 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Keim in view of Japanese Patent 2001-355118 ("JP '118"), the admitted prior art, and any one of Scotch-Weld Epoxy Adhesive 1838 B/A Green, 1838

B/A Tan, 1838-L B/A Translucent or Scotch-Weld Epoxy Adhesive EC-2615, EC 2615

LW. Applicant respectfully traverses this rejection for the reasons provided below.

As an initial matter, the rejection makes reference to Applicant's admitted prior art. Applicant is unclear as to what the Examiner is referring. The rejection states "the admitted prior art appears to suggest that certification of such helmets is commonplace in the art and that attachment of the bracket with an adhesive material would have intrinsically not altered the helmet and thus not altered the helmets ability to retain its certification." Office Action, pages 6-7. The background of the invention, which does discuss some prior art, does not discuss the use of any adhesive whatsoever. Thus, Applicant must assume that the Office Action is referring to text found under the "Description of the Embodiments" portion of the application in which the present invention is described. Applicant submits that this portion of the application discusses Applicant's own invention and to rely on it as prior art is to use impermissible hindsight.

The rejection relies on Keim for a helmet modified to include a guide through the use of adhesive. JP '118 is relied upon for teaching that an epoxy adhesive may be used to join a bracket to a helmet in order to eliminate the need to drill a hole in the helmet. Scotch-Weld Epoxy Adhesive 1838 B/A Green, 1838 B/A Tan, 1838-L B/A Translucent and Scotch-Weld Epoxy Adhesive EC-2615, EC 2615 LW are relied upon for teaching specific types of adhesives. Applicant respectfully submits that none of these references, taken alone or in any combination, discloses the invention as claimed.

Amended independent claim 61 requires "providing a helmet having an outer shell" and "attaching the at least one bracket to the outer shell of the helmet with a binary methyl methacrylate adhesive." Amended claim 73 requires "providing a racing

helmet having an outer shell; and gluing at least one bracket to the outer shell of the helmet with a binary methyl methacrylate adhesive." Even with the teaching of JP '118, the Examiner at best has a teaching that an epoxy adhesive can be used to avoid drilling a helmet. Scotch-Weld Epoxy Adhesive 1838 B/A Green, 1838 B/A Tan, 1838-L B/A Translucent and Scotch-Weld Epoxy Adhesive EC-2615, EC 2615 LW are epoxy adhesives. However, Scotch-Weld Epoxy Adhesive 1838 B/A Green, 1838 B/A Tan, 1838-L B/A Translucent and Scotch-Weld Epoxy Adhesive EC-2615, EC 2615 LW are not binary methyl methacrylate adhesives. Therefore, there is no teaching or suggestion, in any of the references cited in the Office Action, to use a binary methyl methacrylate adhesive. As none of the prior art disclose or suggest "attaching the at least one bracket to the outer shell of the helmet with a binary methyl methacrylate adhesive" as recited in claim 61 or "bonding at least one bracket to the outer shell of the helmet with a binary methyl methacrylate adhesive" as recited in claim 73, Applicant requests withdrawal of the rejection and allowance of the pending claims.

The Office Action contains characterizations of the claims and the related art with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant declines to subscribe to any statement or characterization in the Office Action.

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge  
any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

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By: Elizabeth M. Burke  
Elizabeth M. Burke  
Reg. No. 38,758